

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 13, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 218

Introduced by Senator Yee

February 11, 2013

An act to ~~amend Sections 4935, 4955, 4955.1, 4955.2, 4956, 4960.2, 4961, 4965, 4966, 4967, and 4969 of, to add Section 4964.5 to, and to add Article 3 (commencing with Section 4950) to Chapter 12 of Division 2 of, add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 218, as amended, Yee. ~~Healing-arts. arts:~~ *California traditional Chinese medicine traumatologist certification.*

Existing law establishes various boards that license and regulate healing arts practitioners, including physicians and surgeons, chiropractors, physical therapists, and massage therapists. Existing law provides for the voluntary certification of certain practitioners, including the voluntary certification of massage therapists by the California Massage Therapy Council, a nonprofit organization. Existing law prescribes specified educational and other requirements for an applicant to obtain a massage therapy certificate.

This bill would establish the California Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the development of standards for and certification of the practice of California traditional Chinese medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a California traditional Chinese medicine traumatologist to an applicant who meets certain training and clinical experience requirements, passes a written examination, and pays a fee. The bill would require the council to develop, and report to the Legislature by January 1, 2016, its standards for approving education programs; evaluating the education, training, and clinical experience of applicants; the written examination; and a continuing education program. The bill would make the meetings and deliberations of the council subject to the open meeting requirements and public hearing requirements that apply to state bodies.

This bill would prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of “California certified traditional Chinese medicine traumatologist” without meeting these certification requirements and would specify the circumstances and methods for disciplining a certificate holder.

~~Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled “acupuncturists,” and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture, as specified, is a crime.~~

~~This bill would, commencing May 1, 2014, require the board to issue a certificate to practice as a traditional Chinese medicine traumatologist to an applicant who meets certain education, training, and clinical experience requirements and pays a reasonable fee, as determined by the board. This bill would require the board to establish the California Traditional Chinese Medicine Traumatology Committee to provide advice and carry out specified duties, including investigation and evaluation of whether an applicant meets those education, training, and clinical experience requirements.~~

~~The bill would set forth procedures for the renewal of an unexpired or expired certificate to perform traditional Chinese medicine~~

traumatology and would require the board to establish reasonable fees in that regard.

~~This bill would make it an unfair business practice to use the title of “certified traditional Chinese medicine traumatologist” without meeting these certification requirements and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder. The bill would also make it a crime to use the title of “certified traditional Chinese medicine traumatologist” without meeting these certification requirements and to fraudulently buy or sell a certificate for traditional Chinese medicine traumatology, thereby imposing a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12.5 (commencing with Section 4979.1)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 12.5. CALIFORNIA TRADITIONAL CHINESE MEDICINE
6 TRAUMATOLOGY

7
8 4979.1. As used in this chapter:

9 (a) “California certified traditional Chinese medicine
10 traumatologist” means a person who has been certified by the
11 California Traditional Chinese Medicine Traumatology Council
12 to perform California traditional Chinese medicine traumatology.

13 (b) “Council” means the California Traditional Chinese
14 Medicine Traumatology Council.

15 (c) “California traditional Chinese medicine traumatology”
16 includes a range of treatments to address both acute and chronic
17 musculoskeletal conditions through stimulation of acupressure
18 points. Techniques include, but are not limited to, brushing,

1 kneading, rolling, pressing, rubbing, pushing, holding, and lifting
2 the areas between each of the joints to open the body's defensive
3 chi and stimulate the energy movement in the meridians.

4 4979.3. (a) The California Traditional Chinese Medicine
5 Traumatology Council shall be established as a nonprofit
6 organization exempt from taxation under Section 501(c)(3) of the
7 Internal Revenue Code, for the purpose of developing standards
8 for, and certifying the practice of, California traditional Chinese
9 medicine traumatology. The council may commence activities as
10 authorized by this section after submitting a request to the Internal
11 Revenue Service seeking the exemption.

12 (b) (1) The council shall consist of five members, composed of
13 two representatives from the clinical settings of traumatology, one
14 representative from the Medical Board of California, and two
15 representatives from the California Medical Association.

16 (2) Representatives from the clinical settings of traumatology
17 shall be selected by professional societies, associations, or other
18 entities, whose memberships are comprised solely of practitioners
19 of California traditional Chinese medicine traumatology.

20 (3) To qualify, a professional society, association, or entity shall
21 have a dues-paying membership in California of at least 30
22 individuals for the last three years and shall have bylaws that
23 require its members to comply with a code of ethics.

24 (c) The meetings and deliberations of the council shall be subject
25 to the provisions of the Bagley-Keene Open Meeting Act (Article
26 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
27 Division 3 of Title 2 of the Government Code). All hearings shall
28 be subject to the provisions of the Ralph M. Brown Act (Chapter
29 9 (commencing with Section 54950) of Part 1 of Division 2 of Title
30 5 of the Government Code).

31 (d) No member of the council shall serve a term of longer than
32 four years.

33 4979.4. (a) The council shall issue the title and certificate for
34 California certified traditional Chinese medicine traumatology to
35 any person who makes an application on a form developed by the
36 council, and meets all of the following requirements:

37 (1) Is at least 18 years of age.

38 (2) Is not subject to denial pursuant to Division 1.5 (commencing
39 with Section 475).

1 (3) *Passes a written examination developed and administered*
2 *by the council that tests the applicant's ability, competency, and*
3 *knowledge in the practice of California traditional Chinese*
4 *medicine traumatology.*

5 (4) *Completes and furnishes evidence of either the following:*

6 (A) *In the case of an applicant who has completed education*
7 *and training outside the United States or Canada, the applicant*
8 *shall furnish documented evidence of education, training, and at*
9 *least eight years of clinical experience in traditional Chinese*
10 *medicine traumatology that meets the standards established by*
11 *the council pursuant to subdivision (c).*

12 (B) *In the case of an applicant who has completed education*
13 *and training inside the United States or Canada, the applicant*
14 *shall furnish a certificate in traditional Chinese medicine*
15 *traumatology upon completion of a curriculum in the subject. The*
16 *curriculum for these applicants shall provide for adequate*
17 *instruction in all of the following subjects:*

18 (i) *Human anatomy and physiology.*

19 (ii) *Pathology.*

20 (iii) *Western diagnosis on traumatological injury.*

21 (iv) *Clinical management and medical ethics.*

22 (v) *Basic theory of traditional Chinese medicine.*

23 (vi) *Comparison of traditional Chinese medicine and western*
24 *medicine.*

25 (vii) *Meridian and acupoints.*

26 (viii) *Basic traditional Chinese medicine diagnosis.*

27 (ix) *Basic theory of traditional Chinese medicine traumatology.*

28 (x) *Traditional Chinese medicine diagnosis on traumatology.*

29 (xi) *Hands on skills of traditional Chinese medicine*
30 *traumatology I and II.*

31 (xii) *Chinese herbs and formulas for traumatology.*

32 (xiii) *Traditional Chinese medicine traumatology case study.*

33 (xiv) *One thousand hours in a clinical internship on traditional*
34 *Chinese medicine traumatology.*

35 (b) *Documentation required pursuant to paragraph (4) of*
36 *subdivision (a) may include degrees, certificates, transcripts, and*
37 *proof of academic or clinical residency. The council shall*
38 *investigate all of the documentation provided by the applicant and*
39 *verify its authenticity to evaluate whether an applicant meets the*

1 *certification standards, including the level of experience and*
2 *training to sufficiently qualify for the traumatology certification.*

3 *(c) Certification granted pursuant to this section shall be*
4 *renewed every two years.*

5 *(d) The council shall develop, and report to the Legislature by*
6 *January 1, 2016, all of the following:*

7 *(1) The standards for approval of educational and clinical*
8 *training programs pursuant to paragraph (4) of subdivision (a).*

9 *(2) The standards for evaluating the education, training, and*
10 *clinical experience of an applicant pursuant to paragraph (4) of*
11 *subdivision (a).*

12 *(3) The written examination pursuant to paragraph (3) of*
13 *subdivision (a).*

14 *(4) A continuing education program for California certified*
15 *traditional Chinese medicine traumatologists.*

16 4979.5. *(a) A California certified traditional Chinese medicine*
17 *traumatologist shall not practice medicine, as defined in Section*
18 *2052.*

19 *(b) A California certified traditional Chinese medicine*
20 *traumatologist shall not practice within the scope of activities*
21 *regulated by the State Board of Chiropractic Examiners.*

22 4979.6. *(a) An applicant for California traditional Chinese*
23 *medicine traumatology certification shall file an application for*
24 *a certificate for California traditional Chinese medicine*
25 *traumatology with the council.*

26 *(b) An individual who is not qualified to receive the title and*
27 *certificate under this section shall not hold himself or herself out*
28 *as a California certified traditional Chinese medicine*
29 *traumatologist.*

30 4979.7. *(a) It shall be the responsibility of a certificate holder*
31 *to notify the council of his or her home address, as well as the*
32 *address of any business establishment where he or she regularly*
33 *practices California traditional Chinese medicine traumatology,*
34 *whether as an employee or as an independent contractor. A*
35 *certificate holder shall notify the council within 30 days of*
36 *changing either his or her home address or the address at which*
37 *he or she practices.*

38 *(b) A certificate holder shall include the name under which he*
39 *or she is certified and his or her certificate number in all*

1 advertising and shall display his or her original certificate at his
2 or her place of business.

3 (c) A certificate holder, upon request at the location where he
4 or she practices, shall provide the name under which he or she is
5 certified and the certificate number to a member of the public, the
6 council, or a member of law enforcement or a local government
7 agency.

8 4979.8. (a) An applicant for certification as a California
9 traditional Chinese medicine traumatologist shall pay an
10 application fee and a renewal fee, to be set by the council in an
11 amount not to exceed the amount required to cover the reasonable
12 cost of administering the program.

13 (b) Moneys received under this section shall be utilized by the
14 council to pay for the costs associated with administering this
15 chapter.

16 (c) The council shall make a breakdown of the costs associated
17 with administering this chapter available on an Internet Web site.

18 4979.9. It is an unfair business practice for any person to hold
19 himself or herself out as a California certified traditional Chinese
20 medicine traumatologist or use the title of "California certified
21 traditional Chinese medicine traumatologist" without meeting the
22 requirements of this chapter.

23 4979.10. (a) It is a violation of this chapter for a certificate
24 holder to commit, and the council may deny an application for a
25 certificate or suspend or revoke a certificate for, any of the
26 following:

27 (1) Unprofessional conduct, including, but not limited to, denial
28 of licensure or certification, revocation, suspension, restriction,
29 or any other disciplinary action against a certificate holder by
30 another state or territory of the United States, by any other
31 government agency, or by another entity. A certified copy of the
32 decision, order, or judgment shall be conclusive evidence of these
33 actions.

34 (2) Procuring a certificate by fraud, misrepresentation, or
35 mistake.

36 (3) Violating or attempting to violate, directly or indirectly, or
37 assisting in or abetting the violation of, or conspiring to violate,
38 any provision of this chapter or any rule or bylaw adopted by the
39 council.

1 (4) *Conviction of any felony, or conviction of a misdemeanor*
2 *that is substantially related to the qualifications or duties of a*
3 *certificate holder, in which event the record of the conviction shall*
4 *be conclusive evidence of the crime.*

5 (5) *Impersonating an applicant or acting as a proxy for an*
6 *applicant in any part of the application process or any part of*
7 *satisfying the standards set by the council referred to under this*
8 *chapter for the issuance of a certificate.*

9 (6) *Impersonating a California certified traditional Chinese*
10 *medicine traumatologist, or permitting or allowing an uncertified*
11 *person to use a certificate.*

12 (7) *Committing any fraudulent, dishonest, or corrupt act that*
13 *is substantially related to the qualifications or duties of a certificate*
14 *holder.*

15 (8) *Committing any act punishable as a sexually related crime.*

16 (b) *The council shall investigate within 30 days any consumer*
17 *complaints against a practitioner who is certified pursuant to this*
18 *chapter. The council shall establish an Internet Web site where*
19 *consumers may file complaints, including a web-based complaint*
20 *form.*

21 (c) *No certificate holder or certificate applicant may be*
22 *disciplined or denied a certificate pursuant to subdivision (a)*
23 *except according to procedures satisfying the requirements of this*
24 *section.*

25 (d) *A certificate applicant denial or certificate holder discipline*
26 *shall be done in good faith and in a fair and reasonable manner.*
27 *Any procedure that conforms to the requirements of subdivision*
28 (i) *is fair and reasonable, but a court may also find other*
29 *procedures to be fair and reasonable when the full circumstances*
30 *of the certificate denial or certificate holder discipline are*
31 *considered.*

32 (e) *A procedure is fair and reasonable when the procedures in*
33 *Section 4979.11 are followed, or if all of the following apply:*

34 (1) *The provisions of the procedure have been set forth in the*
35 *articles or bylaws of the council, or copies of those provisions are*
36 *sent annually to all the members as required by the articles or*
37 *bylaws.*

38 (2) *The procedure provides for the giving of 15 days' prior*
39 *notice of the certificate denial or certificate holder discipline and*
40 *the reasons therefor.*

1 (3) *The procedure provides an opportunity for the certificate*
2 *applicant or certificate holder to be heard, orally or in writing,*
3 *not less than five days before the effective date of the certificate*
4 *denial or certificate holder discipline by a person or body*
5 *authorized to decide that the proposed certificate denial or*
6 *certificate holder discipline not take place.*

7 (f) *Notice required under this section may be given by any*
8 *method reasonably calculated to provide actual notice. Notice*
9 *given by mail must be given by first-class or certified mail sent to*
10 *the last address of the certificate applicant or certificate holder*
11 *shown on the council's records.*

12 (g) *An action challenging a certificate denial or certificate*
13 *holder discipline, including a claim alleging defective notice, shall*
14 *be commenced within one year after the date of the certificate*
15 *denial or certificate holder discipline. If the action is successful,*
16 *the court may order relief, including reinstatement, that it finds*
17 *equitable under the circumstances.*

18 (h) *A certificate denial or certificate holder discipline based*
19 *upon substantive grounds that violates contractual or other rights*
20 *of the member or is otherwise unlawful is not made valid by*
21 *compliance with this section.*

22 4979.11. (a) *The council may discipline a certificate holder*
23 *by any, or a combination, of the following methods:*

24 (1) *Placing the certificate holder on probation.*

25 (2) *Suspending the certificate and the rights conferred by this*
26 *chapter on a certificate holder for a period not to exceed one year.*

27 (3) *Revoking the certificate.*

28 (4) *Suspending or staying the disciplinary order, or portions of*
29 *it, with or without conditions.*

30 (5) *Taking other action as the council, as authorized by this*
31 *chapter or its bylaws, deems proper.*

32 (b) *The council may issue an initial certificate on probation,*
33 *with specific terms and conditions, to an applicant.*

34 (c) (1) *Notwithstanding any other law, if the council receives*
35 *notice that a certificate holder has been arrested and charges have*
36 *been filed by the appropriate prosecuting agency against the*
37 *certificate holder alleging a violation of any offense described in*
38 *Section 4979.12 of this code, the council shall take all of the*
39 *following actions:*

1 (A) Immediately suspend, on an interim basis, the certificate of
2 that certificate holder.

3 (B) Notify the certificate holder within 10 business days at the
4 address last filed with the council that the certificate has been
5 suspended, and the reason for the suspension.

6 (C) Notify within 10 business days any business that the council
7 has in its records as employing the certificate holder that the
8 certificate has been suspended.

9 (2) Upon notice to the council that the charges described in
10 paragraph (1) have resulted in a conviction, the suspended
11 certificate shall become subject to permanent revocation. The
12 council shall provide notice to the certificate holder within 10
13 business days that it has evidence of a valid record of conviction
14 and that the certificate will be revoked unless the certificate holder
15 provides evidence within 15 days that the conviction is either
16 invalid or that the information is otherwise erroneous.

17 (3) Upon notice that the charges have resulted in an acquittal,
18 or have otherwise been dismissed prior to conviction, the certificate
19 shall be immediately reinstated and the certificate holder and any
20 business that received notice pursuant to subparagraph (C) of
21 paragraph (1) shall be notified of the reinstatement within 10
22 business days.

23 (d) Notwithstanding any other law, if the council receives clear
24 and convincing evidence that a certificate holder has committed
25 an act punishable as a sexually related crime or a felony that is
26 substantially related to the qualifications, functions, or duties of
27 a certificate holder, the council may immediately suspend the
28 certificate of that certificate holder. A decision to immediately
29 suspend a certificate pursuant to this subdivision shall be based
30 on clear and convincing evidence and the council shall also
31 consider any available credible mitigating evidence before making
32 a decision to suspend a certificate. Written statements by any
33 person shall not be considered by the council when determining
34 whether to immediately suspend a certificate unless made under
35 penalty of perjury. If the council suspends the certificate of a
36 certificate holder in accordance with this subdivision, the council
37 shall take all of the following additional actions:

38 (1) Notify the certificate holder, at the address last filed with
39 the council, within 10 business days by a method providing delivery
40 confirmation, that the certificate has been suspended, the reason

1 *for the suspension, and that the certificate holder has the right to*
2 *request a hearing pursuant to paragraph (3).*

3 *(2) Notify by electronic mail or any other means consistent with*
4 *the notice requirements of this chapter, within 10 business days,*
5 *any business that the council has in its records as employing or*
6 *contracting with the certificate holder, and the California city or*
7 *county permitting authority that has jurisdiction over any business*
8 *that the council has in its records as employing or contracting*
9 *with the certificate holder, that the certificate has been suspended.*

10 *(3) A certificate holder whose certificate is suspended pursuant*
11 *to this subdivision shall have the right to request, in writing, a*
12 *hearing to challenge the factual basis for the suspension. If the*
13 *holder of the suspended certificate requests a hearing on the*
14 *suspension, the hearing shall be held within 30 days after receipt*
15 *of the request. A holder whose certificate is suspended based on*
16 *paragraph (1) shall be subject to revocation or other discipline in*
17 *accordance with subdivision (a).*

18 ~~SECTION 1. Section 4935 of the Business and Professions~~
19 ~~Code is amended to read:~~

20 ~~4935. (a) (1) It is a misdemeanor, punishable by a fine of not~~
21 ~~less than one hundred dollars (\$100) and not more than two~~
22 ~~thousand five hundred dollars (\$2,500), or by imprisonment in a~~
23 ~~county jail not exceeding one year, or by both that fine and~~
24 ~~imprisonment, for any person who does not hold a current and~~
25 ~~valid license to practice acupuncture under this chapter, to hold~~
26 ~~himself or herself out as practicing or engaging in the practice of~~
27 ~~acupuncture, or to hold himself or herself out as a certified~~
28 ~~traditional Chinese medicine traumatologist or use the title of~~
29 ~~“certified traditional Chinese medicine traumatologist” without~~
30 ~~meeting the requirements of this chapter.~~

31 ~~(2) It is a misdemeanor, punishable by a fine of not less than~~
32 ~~one hundred dollars (\$100) and not more than two thousand five~~
33 ~~hundred dollars (\$2,500), or by imprisonment in a county jail not~~
34 ~~exceeding one year, or by both that fine and imprisonment, for~~
35 ~~any person to fraudulently buy, sell, or obtain a license to practice~~
36 ~~acupuncture or a certificate for traditional Chinese medicine~~
37 ~~traumatology, or to violate the provisions of this chapter.~~

38 ~~(b) Notwithstanding any other provision of law, any person,~~
39 ~~other than a physician and surgeon, a dentist, or a podiatrist, who~~
40 ~~is not licensed under this article but is licensed under Division 2~~

1 ~~(commencing with Section 500), who practices acupuncture~~
2 ~~involving the application of a needle to the human body, performs~~
3 ~~any acupuncture technique or method involving the application of~~
4 ~~a needle to the human body, or directs, manages, or supervises~~
5 ~~another person in performing acupuncture involving the application~~
6 ~~of a needle to the human body is guilty of a misdemeanor.~~

7 ~~(e) A person holds himself or herself out as engaging in the~~
8 ~~practice of acupuncture by the use of any title or description of~~
9 ~~services incorporating the words “acupuncture,” “acupuncturist,”~~
10 ~~“certified acupuncturist,” “licensed acupuncturist,” “Asian~~
11 ~~medicine,” “oriental medicine,” “traditional Chinese medicine,”~~
12 ~~or any combination of those words, phrases, or abbreviations of~~
13 ~~those words or phrases, by representing that he or she is trained,~~
14 ~~experienced, or an expert in the field of acupuncture, Asian~~
15 ~~medicine, or Chinese medicine, or by representing that he or she~~
16 ~~is trained, experienced, or an expert in the field of traditional~~
17 ~~Chinese medicine traumatology.~~

18 ~~(d) Subdivision (a) shall not prohibit a person from~~
19 ~~administering acupuncture treatment as part of his or her~~
20 ~~educational training if he or she:~~

21 ~~(1) Is engaged in a course or tutorial program in acupuncture,~~
22 ~~as provided in this chapter; or~~

23 ~~(2) Is a graduate of a school of acupuncture approved by the~~
24 ~~board and participating in a postgraduate review course that does~~
25 ~~not exceed one year in duration at a school approved by the board.~~

26 ~~SEC. 2. Article 3 (commencing with Section 4950) is added~~
27 ~~to Chapter 12 of Division 2 of the Business and Professions Code,~~
28 ~~to read:~~

29
30 ~~Article 3. California Traditional Chinese Medicine~~
31 ~~Traumatologist~~
32

33 ~~4950. As used in this article:~~

34 ~~(a) “California certified traditional Chinese medicine~~
35 ~~traumatologist” means a person who has been certified by the~~
36 ~~California Traditional Chinese Medicine Traumatology Committee~~
37 ~~to perform traditional Chinese medicine traumatology.~~

38 ~~(b) “Committee” means, notwithstanding Section 4925, the~~
39 ~~California Traditional Chinese Medicine Traumatology Committee.~~

1 ~~(e) “Traditional Chinese medicine traumatology” includes a~~
2 ~~range of treatments to address both acute and chronic~~
3 ~~musculoskeletal conditions through stimulation of acupressure~~
4 ~~points. Techniques include, but are not limited to, brushing,~~
5 ~~kneading, rolling, pressing, rubbing, pushing, holding, and lifting~~
6 ~~the areas between each of the joints to open the body’s defensive~~
7 ~~chi and stimulate the energy movement in the meridians.~~

8 ~~4950.1. (a) (1) On or before March 1, 2014, the board shall~~
9 ~~establish the California Traditional Chinese Medicine~~
10 ~~Traumatology Committee within the board. The committee shall~~
11 ~~consist of the following five members appointed by the board:~~

12 ~~(A) One representative from the California Medical Association.~~

13 ~~(B) One representative from the California Orthopaedic~~
14 ~~Association.~~

15 ~~(C) One representative from the Medical Board of California.~~

16 ~~(D) Two representatives from a traditional Chinese medicine~~
17 ~~traumatology clinical setting. These representatives shall be~~
18 ~~selected by professional societies, associations, or other entities,~~
19 ~~whose memberships are comprised solely of practitioners of~~
20 ~~traditional Chinese medicine traumatology. To qualify as a~~
21 ~~professional society or association, an entity shall have a dues~~
22 ~~paying membership in the state of at least 30 individuals for the~~
23 ~~last three years and shall have bylaws that require its members to~~
24 ~~comply with a code of ethics.~~

25 ~~(2) Members of the committee shall serve for a term of four~~
26 ~~years.~~

27 ~~(b) The board, in implementing this article, shall give specific~~
28 ~~consideration to the recommendations of the committee.~~

29 ~~(c) (1) Pursuant to Section 4950.2, the committee shall meet~~
30 ~~and confer to determine an applicant’s qualifications, as prescribed~~
31 ~~in Section 4950.2, including the level of experience and training~~
32 ~~needed to qualify for California traditional Chinese medicine~~
33 ~~traumatology certification.~~

34 ~~(2) The committee shall advise the board on any other issues~~
35 ~~pursuant to this article.~~

36 ~~4950.2. (a) The committee shall investigate all of the~~
37 ~~documentation provided by the applicant and verify its authenticity~~
38 ~~to evaluate whether an applicant meets the certification standards;~~
39 ~~including the level of education, experience, and training to~~

1 sufficiently qualify for the traumatology certification, and shall
2 report its findings and determination to the board.

3 (b) ~~Commencing May 1, 2014, the board shall issue a certificate~~
4 ~~for certified traditional Chinese medicine traumatology to any~~
5 ~~person who makes an application to the board and meets all of the~~
6 ~~following requirements:~~

7 (1) ~~Is at least 18 years of age.~~

8 (2) ~~Is not subject to denial pursuant to Division 1.5 (commencing~~
9 ~~with Section 475).~~

10 (3) ~~Furnishes satisfactory evidence of education, training, and~~
11 ~~clinical experience that meets one of the following standards:~~

12 (A) ~~Passed an examination and received a certificate from an~~
13 ~~institution of higher education in traditional Chinese medicine~~
14 ~~traumatology for completing a curriculum in the subject. The~~
15 ~~curriculum for all applicants shall provide for adequate instruction~~
16 ~~in each of the following subjects:~~

17 (i) ~~Human anatomy and physiology.~~

18 (ii) ~~Pathology.~~

19 (iii) ~~Western diagnosis on traumatological injury.~~

20 (iv) ~~Clinical management and medical ethics.~~

21 (v) ~~Basic theory of traditional Chinese medicine.~~

22 (vi) ~~Comparison of traditional Chinese medicine and western~~
23 ~~medicine.~~

24 (vii) ~~Meridian and acupoints.~~

25 (viii) ~~Basic traditional Chinese medicine diagnosis.~~

26 (ix) ~~Basic theory of traditional Chinese medicine traumatology.~~

27 (x) ~~Traditional Chinese medicine diagnosis on traumatology.~~

28 (xi) ~~Hands on Skills of Traditional Chinese Medicine~~
29 ~~Traumatology I.~~

30 (xii) ~~Hands on Skills of Traditional Chinese Medicine~~
31 ~~Traumatology II.~~

32 (xiii) ~~Chinese herbs and formulas for traumatology.~~

33 (xiv) ~~Traditional Chinese medicine traumatology case study.~~

34 (xv) ~~One thousand hours in a clinical internship on traditional~~
35 ~~Chinese medicine traumatology.~~

36 (B) ~~In the case of an applicant who completed an apprenticeship~~
37 ~~as a traditional Chinese medicine traumatologist for 10 years prior~~
38 ~~to January 1, 2014, furnishes satisfactory evidence of completing~~
39 ~~education, training, and at least 10 years clinical experience in~~
40 ~~traditional Chinese medicine traumatology.~~

1 ~~(C) In the case of an applicant who has completed education~~
2 ~~and training outside of the United States or Canada, furnishes~~
3 ~~satisfactory evidence of completing education, training, and at~~
4 ~~least 10 years clinical experience in traditional Chinese medicine~~
5 ~~traumatology.~~

6 ~~4950.3. (a) (1) An applicant for traditional Chinese medicine~~
7 ~~traumatology certification shall file an application for that~~
8 ~~certificate with the board.~~

9 ~~(2) When submitting his or her application to the board, the~~
10 ~~applicant shall pay an application fee in a reasonable amount~~
11 ~~determined by the board, established in accordance with~~
12 ~~subdivision (d).~~

13 ~~(b) (1) A certified traditional Chinese medicine traumatologist~~
14 ~~shall renew his or her certificate every five years.~~

15 ~~(2) An expired certificate may be renewed at any time within~~
16 ~~three years after its expiration. The holder of the certificate shall~~
17 ~~pay all accrued and unpaid renewal fees, plus a delinquency fee,~~
18 ~~established in accordance with to subdivision (d).~~

19 ~~(c) (1) The committee shall issue a duplicate or replacement~~
20 ~~engraved wall certificate or a duplicate or replacement renewal~~
21 ~~receipt or pocket certificate, upon request.~~

22 ~~(2) The board shall charge a reasonable fee, established in~~
23 ~~accordance with subdivision (d), to process a request for the~~
24 ~~reissuance of a certificate under this subdivision.~~

25 ~~(d) The board shall adopt a schedule of fees, pursuant to this~~
26 ~~section, in amounts that are sufficient to recover all reasonable~~
27 ~~costs incurred by the board, including any startup costs, under this~~
28 ~~article.~~

29 ~~(e) Moneys received under this section shall be deposited in the~~
30 ~~Acupuncture Fund for the purposes of carrying out this article.~~

31 ~~4950.4. It is an unfair business practice for any person to hold~~
32 ~~himself or herself out as a certified traditional Chinese medicine~~
33 ~~traumatologist or to use the title of “certified traditional Chinese~~
34 ~~medicine traumatologist” without meeting the requirements of this~~
35 ~~article.~~

36 ~~4950.5. (a) A California certified traditional Chinese medicine~~
37 ~~traumatologist shall not practice medicine, as provided in Section~~
38 ~~2052.~~

1 ~~(b) A California certified traditional Chinese medicine~~
2 ~~traumatologist shall not practice within the scope of activities~~
3 ~~regulated by the State Board of Chiropractic Examiners.~~

4 ~~SEC. 3. Section 4955 of the Business and Professions Code is~~
5 ~~amended to read:~~

6 ~~4955. The board may deny, suspend, or revoke, or impose~~
7 ~~probationary conditions upon, the license of any acupuncturist or~~
8 ~~the certificate of any traditional Chinese medicine traumatologist~~
9 ~~if he or she is guilty of unprofessional conduct. As used in this~~
10 ~~section, "licensee" includes a certified traditional Chinese medicine~~
11 ~~traumatologist.~~

12 ~~Unprofessional conduct shall include, but not be limited to, the~~
13 ~~following:~~

14 ~~(a) Using or possessing any controlled substance as defined in~~
15 ~~Division 10 (commencing with Section 11000) of the Health and~~
16 ~~Safety Code, or dangerous drug or alcoholic beverage to an extent~~
17 ~~or in a manner dangerous to himself or herself, or to any other~~
18 ~~person, or to the public, and to an extent that the use impairs his~~
19 ~~or her ability to engage in the practice of acupuncture or~~
20 ~~traumatology with safety to the public.~~

21 ~~(b) Conviction of a crime substantially related to the~~
22 ~~qualifications, functions, or duties of an acupuncturist or certified~~
23 ~~traditional Chinese medicine traumatologist, the record of~~
24 ~~conviction being conclusive evidence thereof.~~

25 ~~(c) False or misleading advertising.~~

26 ~~(d) Aiding or abetting in, or violating or conspiring in, directly~~
27 ~~or indirectly, the violation of the terms of this chapter or any~~
28 ~~regulation adopted by the board pursuant to this chapter.~~

29 ~~(e) Except for good cause, the knowing failure to protect patients~~
30 ~~by failing to follow infection control guidelines of the board,~~
31 ~~thereby risking transmission of bloodborne infectious diseases~~
32 ~~from licensee to patient, from patient to patient, and from patient~~
33 ~~to licensee. In administering this subdivision, the board shall~~
34 ~~consider referencing the standards, regulations, and guidelines of~~
35 ~~the State Department of Public Health developed pursuant to~~
36 ~~Section 1250.11 of the Health and Safety Code and the standards,~~
37 ~~regulations, and guidelines pursuant to the California Occupational~~
38 ~~Safety and Health Act of 1973 (Part 1 (commencing with Section~~
39 ~~6300) of Division 5 of the Labor Code) for preventing the~~
40 ~~transmission of HIV, hepatitis B, and other bloodborne pathogens~~

1 in health care settings. As necessary, the board shall consult with
2 the Medical Board of California, the California Board of Podiatric
3 Medicine, the Dental Board of California, the Board of Registered
4 Nursing, and the Board of Vocational Nursing and Psychiatric
5 Technicians of the State of California, to encourage appropriate
6 consistency in the implementation of this subdivision.

7 The board shall seek to ensure that licensees are informed of the
8 responsibility of licensees and others to follow infection control
9 guidelines, and of the most recent scientifically recognized
10 safeguards for minimizing the risk of transmission of bloodborne
11 infectious diseases.

12 (f) ~~The use of threats or harassment against any patient or~~
13 ~~licensee for providing evidence in a disciplinary action, other legal~~
14 ~~action, or in an investigation contemplating a disciplinary action~~
15 ~~or other legal action.~~

16 (g) ~~Discharging an employee primarily for attempting to comply~~
17 ~~with the terms of this chapter.~~

18 (h) ~~Disciplinary action taken by any public agency for any act~~
19 ~~substantially related to the qualifications, functions, or duties of~~
20 ~~an acupuncturist, certified traditional Chinese medicine~~
21 ~~traumatologist, or any professional health care licensee.~~

22 (i) ~~Any action or conduct that would have warranted the denial~~
23 ~~of the acupuncture license or the traumatology certificate.~~

24 (j) ~~The violation of any law or local ordinance on a licensee's~~
25 ~~business premises by a licensee's employee or a person who is~~
26 ~~working under the licensee's professional license or business~~
27 ~~permit, that is substantially related to the qualifications, functions,~~
28 ~~or duties of the licensee. These violations shall subject the licensee~~
29 ~~who employed the individuals, or under whose acupuncturist~~
30 ~~license or traumatology certificate the employee is working, to~~
31 ~~disciplinary action.~~

32 (k) ~~The abandonment of a patient by the licensee without written~~
33 ~~notice to the patient that treatment is to be discontinued and before~~
34 ~~the patient has had a reasonable opportunity to secure the services~~
35 ~~of another practitioner.~~

36 (l) ~~The failure to notify the board of the use of any false,~~
37 ~~assumed, or fictitious name other than the name under which he~~
38 ~~or she is licensed as an individual to practice acupuncture or as an~~
39 ~~individual certified in traditional Chinese medicine traumatology.~~

1 SEC. 4. ~~Section 4955.1 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~4955.1. The board may deny, suspend, revoke, or impose~~
4 ~~probationary conditions upon the license of any acupuncturist or~~
5 ~~certificate of any certified traditional Chinese medicine~~
6 ~~traumatologist if he or she is guilty of committing a fraudulent act,~~
7 ~~including, but not limited to, the following:~~

8 ~~(a) Securing a license by fraud or deceit.~~

9 ~~(b) Committing a fraudulent or dishonest act as an acupuncturist~~
10 ~~or certified traditional Chinese medicine traumatologist.~~

11 ~~(c) Committing any act involving dishonesty or corruption with~~
12 ~~respect to the qualifications, functions, or duties of an acupuncturist~~
13 ~~or certified traditional Chinese medicine traumatologist.~~

14 ~~(d) Altering or modifying the medical record of any person,~~
15 ~~with fraudulent intent, or creating any false medical record.~~

16 ~~(e) Failing to maintain adequate and accurate records relating~~
17 ~~to the provision of services to his or her patients.~~

18 SEC. 5. ~~Section 4955.2 of the Business and Professions Code~~
19 ~~is amended to read:~~

20 ~~4955.2. The board may deny, suspend, revoke, or impose~~
21 ~~probationary conditions upon the license of any acupuncturist or~~
22 ~~certified traditional Chinese medicine traumatologist if he or she~~
23 ~~is guilty of committing any one of the following:~~

24 ~~(a) Gross negligence.~~

25 ~~(b) Repeated negligent acts.~~

26 ~~(c) Incompetence.~~

27 SEC. 6. ~~Section 4956 of the Business and Professions Code is~~
28 ~~amended to read:~~

29 ~~4956. A plea or verdict of guilty or a conviction following a~~
30 ~~plea of nolo contendere made to a charge that is substantially~~
31 ~~related to the qualifications, functions, or duties of an acupuncturist~~
32 ~~or certified traditional Chinese medicine traumatologist is deemed~~
33 ~~to be a conviction within the meaning of this chapter.~~

34 ~~The board may order a license or certificate suspended or~~
35 ~~revoked, or may deny a license or certificate, or may impose~~
36 ~~probationary conditions upon a license or certificate, when the~~
37 ~~time for appeal has elapsed, or the judgment of conviction has~~
38 ~~been affirmed on appeal, or when an order granting probation is~~
39 ~~made suspending the imposition of sentence irrespective of a~~
40 ~~subsequent order under Section 1203.4 of the Penal Code allowing~~

1 the person to withdraw his or her pleas of guilty and to enter a plea
2 of not guilty, or setting aside the verdict of guilty, or dismissing
3 the accusation, complaint, information, or indictment.

4 SEC. 7.— Section 4960.2 of the Business and Professions Code
5 is amended to read:

6 4960.2.— The board in all cases of revocation shall certify the
7 fact of the revocation, under the seal of the board, to the business
8 licensing entity of the cities or counties in which the license of the
9 acupuncturist or the certificate of the traditional Chinese medicine
10 traumatologist has been revoked. The record of the revocation
11 made by the county or city clerk shall be sufficient evidence of
12 the revocation, and of the regularity of all proceedings of the board
13 in the matter of the revocation.

14 SEC. 8.— Section 4961 of the Business and Professions Code is
15 amended to read:

16 4961.— (a) Every person who is now or hereafter licensed to
17 practice acupuncture or certified to practice traditional Chinese
18 medicine traumatology in this state shall register, on forms
19 prescribed by the board, his or her place of practice, or, if he or
20 she has more than one place of practice, all of the places of practice.
21 If the licensee or certificate holder has no place of practice, he or
22 she shall notify the board of that fact. A person licensed or certified
23 by the board shall register within 30 days after the date of his or
24 her licensure or certification.

25 (b) A licensee or certificate holder shall post his or her license
26 or certificate in a conspicuous location in his or her place of
27 practice at all times. If an acupuncturist or certified traditional
28 Chinese medicine traumatologist has more than one place of
29 practice, he or she shall obtain from the board a duplicate license
30 or certificate for each additional location and post the duplicate
31 license or certificate at each location.

32 (c) Any licensee or certificate holder that changes the location
33 of his or her place of practice shall register each change within 30
34 days of making that change. If a licensee or certificate holder fails
35 to notify the board of any change in the address of a place of
36 practice within the time prescribed by this section, the board may
37 deny renewal of licensure or certification. An applicant for renewal
38 of licensure or certification shall specify in his or her application
39 whether or not there has been a change in the location of his or

1 her place of practice and, if so, the date of that change. The board
2 may accept that statement as evidence of the change of address.

3 SEC. 9. Section 4964.5 is added to the Business and Professions
4 Code, immediately following Section 4964, to read:

5 4964.5. The provisions of this article apply to both licensed
6 acupuncturists and certified traditional Chinese medicine
7 traumatologists.

8 SEC. 10. Section 4965 of the Business and Professions Code
9 is amended to read:

10 4965. (a) (1) A license to practice acupuncture issued pursuant
11 to this chapter shall expire on the last day of the birth month of
12 the licensee during the second year of a two-year term, if not
13 renewed.

14 (2) The board shall establish and administer a birth date renewal
15 program for purposes of this subdivision.

16 (3) To renew an unexpired license, the holder shall apply for
17 renewal on a form provided by the board and pay the renewal fee
18 fixed by the board.

19 (b) A certificate for traditional Chinese medicine traumatology
20 issued pursuant to this chapter shall expire five years after the date
21 of issuance, if not renewed. To renew an unexpired certificate, the
22 holder shall apply for renewal on a form provided by the board
23 and pay the renewal fee set forth in Section 4950.3.

24 SEC. 11. Section 4966 of the Business and Professions Code
25 is amended to read:

26 4966. (a) Except as provided in Section 4969, a license to
27 practice acupuncture that has expired may be renewed at any time
28 within three years after its expiration by filing an application for
29 renewal on a form provided by the board, paying all accrued and
30 unpaid renewal fees, and providing proof of completing continuing
31 education requirements. If the license is not renewed prior to its
32 expiration, the acupuncturist, as a condition precedent to renewal,
33 shall also pay the prescribed delinquency fee.

34 (b) Except as provided in Section 4969, a certificate for
35 traditional Chinese medicine traumatology that has expired may
36 be renewed at any time within three years after its expiration by
37 filing an application for renewal on a form provided by the board,
38 and paying all accrued and unpaid renewal fees. If the certificate
39 is not renewed prior to its expiration, the traditional Chinese

1 medicine traumatologist, as a condition precedent to renewal, shall
2 also pay a delinquency fee, set in accordance with Section 163.5:

3 (e) ~~Renewal under this section shall be effective on the date on~~
4 ~~which the application is filed, on the date on which the renewal~~
5 ~~fee is paid, or on the date the delinquency fee is paid, whichever~~
6 ~~occurs last. If so renewed, the license or certificate shall continue~~
7 ~~in effect through the expiration date provided in Section 4965,~~
8 ~~after the effective date of the renewal, when it shall expire and~~
9 ~~become invalid if it is not again renewed.~~

10 SEC. 12. ~~Section 4967 of the Business and Professions Code~~
11 ~~is amended to read:~~

12 ~~4967. A person who fails to renew his or her license or~~
13 ~~certificate within three years after its expiration may not renew it,~~
14 ~~and it may not be restored, reissued, or reinstated thereafter, but~~
15 ~~that person may apply for and obtain a new license or certificate~~
16 ~~if he or she meets all of the following requirements:~~

17 (a) ~~Has not committed any acts or crimes constituting grounds~~
18 ~~for denial of licensure or certification under Division 1.5~~
19 ~~(commencing with Section 475):~~

20 (b) ~~If an acupuncturist takes and passes the examination, if any,~~
21 ~~which would be required of him or her if an initial application for~~
22 ~~licensure was being made, or, if an acupuncturist or certified~~
23 ~~traditional Chinese medicine traumatologist otherwise establishes~~
24 ~~to the satisfaction of the board that, with due regard for the public~~
25 ~~interest, he or she is qualified to practice as an acupuncturist or~~
26 ~~certified traditional Chinese medicine traumatologist.~~

27 (c) ~~Pays all of the fees that would be required if an initial~~
28 ~~application for licensure or certification was being made.~~

29 (d) ~~The board may provide for the waiver or refund of all or~~
30 ~~any part of an examination fee in those cases in which a license~~
31 ~~to practice acupuncture is issued without an examination pursuant~~
32 ~~to this section.~~

33 SEC. 13. ~~Section 4969 of the Business and Professions Code~~
34 ~~is amended to read:~~

35 ~~4969. (a) A suspended license or certificate is subject to~~
36 ~~expiration and shall be renewed as provided in this article, but the~~
37 ~~renewal does not entitle the acupuncturist or certified traditional~~
38 ~~Chinese medicine traumatologist, while the license or certificate~~
39 ~~remains suspended, and until it is reinstated, to engage in the~~
40 ~~practice of acupuncture or traditional Chinese medicine~~

1 traumatology, or in any other activity or conduct in violation of
2 the order or judgment by which the license or certificate was
3 suspended.

4 (b) A revoked license or certificate is subject to expiration as
5 provided in this article, but it may not be renewed. If it is reinstated
6 after its expiration, the former licensee or certificate holder, as a
7 condition to reinstatement, shall pay a reinstatement fee in an
8 amount equal to the renewal fee in effect on the last regular renewal
9 date before the date on which the license or certificate was
10 reinstated, plus the delinquency fee, if any, accrued at the time of
11 its expiration.

12 SEC. 14. ~~No reimbursement is required by this act pursuant to~~
13 ~~Section 6 of Article XIII B of the California Constitution because~~
14 ~~the only costs that may be incurred by a local agency or school~~
15 ~~district will be incurred because this act creates a new crime or~~
16 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
17 ~~for a crime or infraction, within the meaning of Section 17556 of~~
18 ~~the Government Code, or changes the definition of a crime within~~
19 ~~the meaning of Section 6 of Article XIII B of the California~~
20 ~~Constitution.~~